

February 1, 2022

The Honorable Merrick Garland
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Garland:

The riots of 2020 caused dozens of deaths¹ and destroyed billions of dollars' worth of property.² It is imperative that those who committed crimes be held accountable. And yet your Department of Justice is apparently determined to do the opposite.

Recent news reports have brought to light a statement of the “position of the United States with respect to sentencing” in the case of Montez Terriel Lee, Jr., filed in November 2021 in the U.S. District Court for the District of Minnesota.³ As the Department acknowledged, on May 28, Lee broke into the Max It Pawn Shop and poured fire accelerant throughout the store.⁴ As the pawnshop burned, Lee proclaimed, “F*** this place. We’re gonna burn this b**ch down.”⁵ Lee then moved off with a group of other men, talking about the restaurants they planned to “hit” next.⁶

But Lee didn’t just destroy property. The body of 30-year-old Oscar Lee Stewart was found in the rubble of the pawnshop, and medical examiners attributed his death to “probable inhalation of products of combustion and thermal injury (building fire).”⁷ Lee’s casual violence, in short, killed Mr. Stewart.

Lee’s crime is atrocious, and he should be prosecuted to the fullest extent of the law. But shockingly, your Department has taken a quite different approach—arguing that Lee deserves *leniency* because of the circumstances of the crime. Specifically, the Department argued in its position statement that “Lee’s motive for setting the fire is a foremost issue” and that “there is no basis to disbelieve [his] statement” that “he was in the streets to protest

¹ <https://www.theguardian.com/world/2020/oct/31/americans-killed-protests-political-unrest-acled>

² <https://fee.org/articles/george-floyd-riots-caused-record-setting-2-billion-in-damage-new-report-says-here-s-why-the-true-cost-is-even-higher/>

³ <https://alphanews.org/wp-content/uploads/2022/01/Montez-Lee-Sentencing-Opinion.pdf>

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

unlawful police violence against black men”⁸ The Department went on to note that, during the protests,

There appear . . . to have been many people who felt angry, frustrated, and disenfranchised, and who were attempting, in many cases in an unacceptably reckless and dangerous manner, to give voice to those feelings. Mr. Lee appears to be squarely in this latter category. And even the great American advocate for non-violence and social justice, Dr. Martin Luther King, Jr., stated in an interview with CBC’s Mike Wallace in 1966 that “we’ve got to see that a riot is the language of the unheard.”

As a result, the Department contended that “the analysis of the [Sentencing] Guidelines does not appear appropriate” because Lee “appears to have believed that he was, in Dr. King’s eloquent words, engaging in ‘the language of the unheard.’”⁹

Let’s be clear: this is abject nonsense. The evidence in this case depicts Lee engaging in premeditated arson and destruction of property, attacking business targets entirely unrelated to the death of George Floyd or any other individual. There appears to be little external evidence that Lee was in fact motivated by belief in the righteousness of his cause—and even if there was, it wouldn’t matter. Belief in a political cause does not excuse arson.

Rather, what this position statement makes clear is that, under your leadership, the toxic ideology of critical race theory has spread through the Department. While you treat persons charged with petty offenses from the January 6 riot as hardened criminals, now even the most heinous offenses can be treated leniently, as long as the perpetrator is of the correct race and the crime can be connected to some progressive *cause célèbre*.

We’re already reaping the consequences of this ideology at the state and local level: district attorneys infected with this criminal-first worldview now treat violent felons with kid gloves, leading to the crime wave we are presently seeing in major cities across America. And now, perhaps unsurprisingly, that poison has reached the federal justice system.

Americans deserve equal justice under law, not far-left politicking that makes them less safe.

Please provide my office with responses to the following questions:

1. In how many cases involving criminal conduct arising from the riots of summer 2020 has the Department argued for a downward departure from the Sentencing Guidelines? Please provide a list of all such cases.
2. In how many cases involving criminal conduct arising from the riots of summer 2020 has the Department argued that “the analysis of the Guidelines does not appear

⁸ *Id.*

⁹ *Id.*

appropriate” on the theory that the criminal conduct was committed in the context of outrage over the death of George Floyd? Please provide a list of all such cases.

3. On the basis of what legal authority did the Department conclude that the fact that criminal conduct was committed in the context of outrage over the death of George Floyd can justify a downward departure from the Guidelines sentencing range?

I await your responses.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Hawley". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Josh Hawley
United States Senator